A.F.R.

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HIGH COURT OF JUDICATURE CHHATTISGARH : BILASPUR

SINGLE BENCH : HON'BLE SHRI S.R. NAYAK, C.J.

WRIT PETITION NO. 291 OF 2006

PETITIONERS Veena Mahila Samuh, through the President Bindulata Sao, D/o. Shri Bharat Lal Sao, aged about 28 years R/o. Village Tamnar, Tehsil Gharghoda, Distt. Raigarh (C.G.)

Vs.

RESPONDENTS

1. State of Chhattisgarh, Through , The Principal Secretary Department of Food and Civil Supplies and Consumer Protection Department, D.K.S. Bhawan Raipur (C.G.).
2. The Sub Divisional Officer, (Rev.) Gharghora, District Raigarh (C.G.).
3. The Nayab Tahsildar, Tamnar, Distt. Raigarh, (C.G.).
4. Satyanand Rathiay, M.L.A. Sansadiya Sachiv, Chhattisgarh State, Raipur (C.G.).
5. The District Food Officer, Gharghora, Distt. Raigarh (C.G.).

Present : Shri Rajesh Pandey, learned counsel for the petitioner.

(ORAL ORDER)
(Passed on 19th January, 2006)

This writ petition is misconceived and premature. The 2nd respondent who is the competent authority to grant authorisation for fresh fair price shops, by his order dated 19-09-2005, granted authorisation in favour of the petitioner – Society. It is alleged that at the behest of the 4th respondent, the 3rd respondent reported to the 2nd respondent that the petitioner-Society was indulging in certain malpractices and violated regulations. On that basis, the 2nd respondent- competent authority has issued show-cause notice dated 02.01.2006 calling upon the petitioner-Society to submit its reply, if any, on the alleged irregularities and

malpractices. The petitioner-Society has already submitted its reply to the show-cause notice. The petitioner without waiting for the order that may be made by the 2nd respondent after consideration of its reply has rushed to this Court under Articles 226 & 227 of the Constitution of India seeking writ of certiorari to quash the proceedings initiated by the 2nd respondent on the basis of the report submitted by the 3rd respondent. Alternatively, it s prayed that a direction be issued to the 2nd respondent to afford fair and adequate opportunity of hearing to the petitioner-Society, before passing any order.

(2) I have heard the learned counsel for the petitioner. It was contended that very initiation of the proceedings on the basis of the report submitted by the 3rd respondent, is one without authority of law. Secondly, it was contended that the 2nd respondent ought to have given an opportunity to the petitioner-Society to cross-examine all those persons whose statements are recorded in support of the allegations levelled against the petitioner-Society. Both the contentions are not well-founded and not acceptable to the Court for more than one reason. It is not that the 2nd respondent has abdicated the power vested in him in favour of any authority. The 2nd respondent himself is seized of the matter and rightly issued show-cause notice calling upon the petitioner-Society to submit its reply on the allegations levelled against him. A donee of the statutory power can exercise the jurisdiction vested in him not necessarily on the basis of the information or material he collects, but also on the basis of information and material that may be brought to his notice from any other source. The crux of the matter is that the donee of the statutory power should himself exercise the power vested in him and he cannot abdicate or delegate the power of decision-making in favour of any authority, unless the parent statute provides for it by way of delegation.

(3) The second contention is required to be noticed only to be rejected. The petitioner-Society has appended a copy of the reply submitted by it to the show-cause notice. In the reply to the show-cause notice, no request is made to the 2nd respondent to tender those persons whose statements are recorded in support of the allegations, for cross-examination by the petitioner-Society. Even if the petitioner-Society were to make such a request, the 2nd respondent, in my considered opinion, is not required in terms of law to accede to such request. The enquiry to be conducted by the 2nd respondent cannot be equated or converted into a full-fledged trial comparable to a trial before the Civil Court or Criminal Law Court. The only thing the law insists is that the 2nd respondent before acting on the allegations levelled against the petitioner-Society should appraise the petitioner-Society and provide it an opportunity to have its say in the matter and that is exactly the 2nd respondent has rightly done it. Looking from any angle, there is no merit in the writ petition. It is accordingly dismissed. No costs.

Sd/-
The Chief Justice

Subby